

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF**

77-6057

MERVIN J. COHEN - Plaintiff Appellant
V/S

DAVID MATTHEWS - Sec. N.E.W.

Defendant Appellant

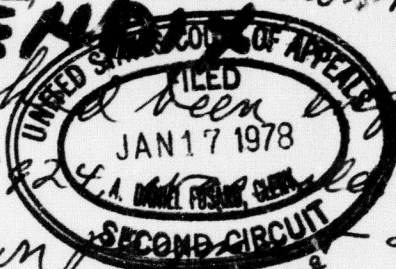
BRIEF - APPENDIX

Dec. 6, 1977

Civil Appeal

Schedule Credit 15A

Docket No. 77-6057



My business, in which I have been engaged as an insurance broker since 1924, during June of 1971. I received no down and collected about 3000 for a business worth 75,000. There is a copy of this contract in the file which clearly indicates my mental health at the time.

During the period from June 1971 through the end of 1972, I closed 1 life insurance case, which was handled entirely by the general agents for the companies, and 1 real estate lease.

Social security payments for 9 months were refused on the grounds that I spent this time working on these 2 deals.

I could not spend all this time on these cases since my medical record for 1972 & 1973 would indicate that I was unwell for a long term prior to my admission to Mt. Sinai.

Me. Glahn - appellant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Filed
2.24-77

MERVIN J. COHEN

Plaintiff,

-against-

DAVID MATHEWS,
SECRETARY OF HEALTH, EDUCATION,
and WELFARE

Defendant.

75 Civ. 5948 (CSH)

HAIGHT, District Judge:

Plaintiff has commenced the above entitled action pursuant to § 205(g) of the Social Security Act, as amended, 42 U.S.C. § 405(g), to review a final determination of the Secretary of Health, Education and Welfare, relevant to Plaintiff's claim for retirement insurance benefits for the period March 1971 through January 1972, which was denied, after administrative review, in a decision by Administrative Law Judge Milton Pravitz, and affirmed by the Appeals Council of the Social Security Administration.

In a suit brought under § 205(g), the Court's function is a limited one - to review the administrative record, and determine whether there is substantial evidence to support the decision of the administrative agency. See Richardson v. Perales, 402 U.S. 389 (1971). This the Court has done, and I conclude, as a matter of law, that there is more

than substantial evidence to sustain the conclusions of both fact and law found by Judge Pravitz.

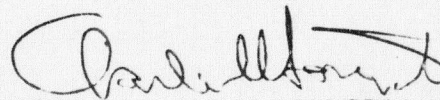
The administrative decision which serves as the basis of the instant suit represents, in essence, a determination by the Social Security Administration to award substantial benefits to plaintiff—benefits which had been previously denied by the Administration. Originally, plaintiff had sought retirement benefits for the years 1971, 1972 and 1973. This claim was denied by the Administration; such ruling being affirmed under a subsequent "Reconsideration Determination". It was only after a full hearing before Judge Pravitz, did plaintiff receive partial relief and an award of benefits for the period commencing February, 1972.

There is little to be gained by a recital of the facts herein, which I might add have been set forth with painstaking specificity by Judge Pravitz in his decision. This Court has engaged in its own de novo review of the record and the exhibits therein—the evidence brought forth at plaintiff's hearing clearly sustains the determination of the Administrative Law Judge as to plaintiff's ineligibility for retirement benefits for the period in question. I therefore grant defendant's motion for judgment on the pleadings pursuant to Rule 12(c), F.R.C.P.

It is So Ordered.

Dated: New York, New York
February 14, 1977

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CHARLES S. HAIGHT, JR.
U. S. D. J.

75 CIV 5948

COHEN, MERVIN J.

VS. DEPT. OF HEALTH EDUCATION AND WELFARE

DATE	NR.	PROCEEDINGS	EXHIBIT
11-25-75	(1)	Filed Complaint and issued summons.	
12-11-75	(2)	Filed summons and return- served the following: Dept. of Health, "ducation & "elfare, Wash. D.C. by cert. mail # 285538 on 12-08-75 The Atty. General, Wash., D.C. by cert. mail # 285537 on 12-08-75 U.S. Atty's office by Ralph Lee on 12-08-75	
04-20-76	(3)	Filed ANSWER of deft. to the complaint.	
04-28-76	---	Mailed notice of reassignment of this action to Haight, J.	(U.S.A.)
8-16-76	4	Filed Deft's Motion For Readiness.	
09-17-76	5	Filed Deft's. notice of motion for judgment on the pleadings, ret. 10-1-76.	
09-17-76	6	Filed Deft's. memorandum of law supporting motion for judgment on the pleadings.	
2-24-77	7	Filed order ... I grant deft motion for judgment on the pleadings So ordered Haight J. m/n	
2-25-77	9	Filed judgment .. ordered that deft have judgment against plttf dismissing the complaint. Haight J. Judgment ent. Clerk 2-25-77. m/n	
3-28-77	10	Filed plttf notice of appeal to the USCA from order of 2-24-77 of J. Haight m/n	
04-14-77	11	Filed Notice that original record on appeal has been certified and transmitted to USCA 2nd Circuit this day.	
7-15-77	12	Filed True Copy of USCA Mandate. Ordered that appeal from USDC SDNY is hereby dismissed. (mn)	

A TRUE COPY

RAYMOND E. BURCHARDT, Clerk

By

Deputy Clerk

T/OFFICE	DOCKET		FILING DATE			J	N/S	O	R	P 23	S	JUDGE NUMBER	JURY O.M.	DOCKET	
	YR.	NUMBER	MO.	DAY	YEAR									YR.	NUMBER
208-1	75	5948	11	25	75	2	860	1				0060 0865		75	5948

PLAINTIFFS

DEFENDANTS DUFFY, J

COHEN, MERVIN J.

DEPT. OF HEALTH EDUCATION AND
WELFARE

Review of a decision of the dept. of Soc.Sec. CAUSE

e.v.

Marvin J. Cohen PRO SE
350 Cabrini Boulevard
New York, New York 10040

ATTORNEYS

U.S. ATTORNEY (X-1994)

☐ CHECK
HERE
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FILING FEES PAID

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65-713

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STATISTICAL CARDS

CARD DATE MAILED

JS-5 X

JS-6 2-25-77

UNITED STATES DISTRICT COURT DOCKET

DC-111 (Rev. 1/75)

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Calendar Number 75 CIV 59, 3

Docket Number 77-6057

vs.

NOTICE OF APPEARANCE OF COUNSEL

The Clerk will enter my appearance as counsel for _____

PRO SE ☒ Appellant ☐ Appellee

My name is MERVIN J. COHEN

The name of my firm, its address and telephone number are SAME
(212) WA 8-3109

I was admitted to the Bar of this court on _____

TIME REQUEST AND ARGUMENT INFORMATION

1) The attorney who will argue the appeal is _____

_____. If different from above, the address
and telephone number are _____

2) This case has been before the court previously ☐ Yes ☒ No

3) If yes, give reference by title and docket number _____

4) Kindly set argument for a date other than those I observe as
religious holy days which are none until after Sept.

except 9/13 + 9/14 - 9/22

